

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

UNITED STATES OF AMERICA

v.

JOHN J. BRENNAN,
Defendant.

Cr. No. _____

In violation of 18 U.S.C. §§ 1341 and 664
and 29 U.S.C. § 501(c)

CR 14

042 S

INDICTMENT

The Grand Jury charges that:

FILED

INTRODUCTION

U.S. DISTRICT COURT
DISTRICT OF RHODE ISLAND

At all times relevant to the Indictment:

1. Defendant JOHN J. BRENNAN was a Master Rigger with the International Alliance of Theatrical and Stage Employees Local Union 23 ("IATSE LU 23" or "the union"). IATSE LU 23 represented stage hands specializing in rigging, lighting, audio, carpentry and production at various entertainment venues across Rhode Island.
2. IATSE LU 23 was a labor organization which existed for the purpose of dealing with employers on behalf of its members concerning grievances, labor disputes, wages, rates of pay, hours, and other terms or conditions of employment. IATSE LU 23 was a labor organization within the meaning of section 402(j) of the Labor Management Reporting and Disclosure Act (29 U.S.C. § 402(j)).
3. IATSE LU 23 negotiated and executed collective bargaining agreements with employers in the entertainment industry in Rhode Island which required those

employers to remit to IATSE LU 23 dues assessments of union members employed by them. These dues were assessed as a percentage of the employee member's gross wages. Typically, these funds were paid by check made payable to "IATSE Local 23" (or some variation thereof) and mailed to the address printed on the checks.

4. On or about October 1, 2005, the union created the "International Alliance of Theatrical Stage Employees, Local 23 Health and Welfare Fund" (hereafter "IATSE LU 23 Health & Welfare fund"), a trust fund to provide health and welfare benefits for union members. Defendant served as the administrator of the union's health and welfare plan between 2006 and June 2011.

5. According to the terms of the agreements between IATSE LU 23 and employers in the entertainment industry, those employers were obligated to make contributions to the IATSE LU 23 Health & Welfare fund. These contributions were typically at least ten percent of the employee member's gross wages.

6. The IATSE LU 23 Health & Welfare fund constituted an employee welfare benefit plan subject to Title I of the Employee Retirement Income Security Act of 1974 ("ERISA"). The employer contributions constituted the money, funds, credits, property, and assets of the IATSE LU Health & Welfare fund.

7. Employers typically made contributions to the IATSE LU 23 Health & Welfare fund by check made payable to "IATSE Local 23 Health and Welfare Fund" (or some variation thereof). These checks were mailed to the address printed on the checks.

8. Between on or about January 1, 2006 and on or about December 31, 2011, Defendant served as the Secretary-Treasurer of IATSE LU 23. As the Secretary-

Treasurer, Defendant was responsible for maintaining its financial books. He was responsible for collecting the dues assessments paid by employers to the union and for collecting employer contributions to the IATSE LU 23 Health & Welfare fund.

Defendant was responsible for depositing these funds into accounts designated by the Executive Board of the union.

SCHEME TO DEFRAUD

9. From on or about February 12, 2007, through on or about October 7, 2011, in the District of Rhode Island and elsewhere, Defendant JOHN J. BRENNAN, with the intent to defraud, devised a scheme and artifice to defraud IATSE LU 23 and the IATSE LU 23 Health & Welfare fund and obtain money and property of IATSE LU 23 and the IATSE LU 23 Health & Welfare fund, by materially false and fraudulent pretenses, representations, and promises.

MANNER AND MEANS

10. It was part of the scheme to defraud that on or about June 22, 2007, Defendant opened an account at Sovereign Bank New England in the name of "IATSE Local Health & Welfare Fund," with an address of 58 Sampson Avenue, North Providence, Rhode Island 02911. The account signature card indicated that this account, # xxxxxxxx5155 (hereinafter "the Sovereign H&W account"), was a "Trust Fund" and Defendant was the sole signature authority on the Sovereign H&W account.

11. It was further part of the scheme that Defendant did not notify the union members of the existence of the Sovereign H&W account.

12. It was further part of the scheme that Defendant opened, without knowledge and authorization of the union, the Sovereign H&W account with an initial deposit of \$12,013.69. This deposit was comprised of five separate checks from three different employers. These checks were made payable to "IATSE Local 23 Health & Welfare Fund," "Local 23 IATSE c/o John Brennan Sr.," and "Health & Welfare Trust Fund Local 23."

13. It was further part of the scheme that between on or about June 22, 2007 and on or about June 30, 2010, Defendant deposited, without knowledge and authorization of the union, \$37,088.99 in IATSE LU 23 Health & Welfare Plan funds into the Sovereign H&W account.

14. It was further part of the scheme that between on or about June 22, 2007 and on or about June 30, 2010, Defendant deposited, without knowledge and authorization of the union, \$28,346.27 in IATSE LU 23 union dues assessments into the Sovereign H&W account.

15. It was further part of the scheme that between on or about June 26, 2007 and on or about July 1, 2010, Defendant withdrew, without knowledge and authorization of the union, funds from the Sovereign H&W account by checks made payable to Defendant in the total amount of \$65,780.88. Some of these checks were deposited into personal accounts held in the name of Defendant and others were cashed by Defendant.

16. It was further part of the scheme that between on or about February 12, 2007 and on or about October 7, 2011, Defendant deposited, without the knowledge and

authorization of the union, \$5,200.55 in IATSE LU 23 union dues assessments into personal accounts held in Defendant's name.

17. It was further part of the scheme that on or about March 29, 2011, Defendant deposited, without knowledge and authorization of the union, \$3,421.39 in IATSE LU 23 Health & Welfare Plan funds into his personal account, Sovereign account # xxxxxxxx3488.

COUNTS ONE THROUGH SEVEN

18. The Grand Jury incorporates by reference the allegations in paragraphs 1 - 17 of the Indictment and further charges:

19. On or about the dates described below, in the District of Rhode Island, for the purpose of executing and attempting to execute the above-described scheme and artifice to defraud, Defendant knowingly caused to be sent, delivered, and moved by the United States Postal Service and by commercial interstate carriers, according to the directions thereon, various matters, items, and things, as described below:

<u>Count</u>	<u>Date</u>	<u>Mailing</u>
One	4/30/09	ART Payroll.com mailed check #787328, which was made payable to "IATSE Local 23 Health and Welfare Fund" in the amount of \$264.25, to 58 Sampson Avenue, North Providence, Rhode Island
Two	11/26/09	ART Payroll.com mailed check #810853, which was made payable to "IATSE Local 23 Health and Welfare Fund" in the amount of \$713.15, to 58 Sampson Avenue, North Providence, Rhode Island

<u>Count</u>	<u>Date</u>	<u>Mailing</u>
Three	6/10/10	ART Payroll.com mailed check #829879, which was made payable to "IATSE Local 23 Health and Welfare Fund" in the amount of \$475.31, to 58 Sampson Avenue, North Providence, Rhode Island
Four	1/22/11	University of Rhode Island mailed check #4727, which was made payable to "IATSE Local 23" in the amount of \$3,421.39, to 90 Printery Street, Providence, RI 02904
Five	3/19/09	ART Payroll.com mailed check #783354, which was made payable to "IATSE Local 23" in the amount of \$883.72, to 58 Sampson Avenue, North Providence, Rhode Island
Six	3/8/10	SMG Dunkin Donuts Center mailed check #8258, which was made payable to "Local 23 IATSE c/o John Brennan Sr" in the amount of \$2,921.92, to 58 Sampson Avenue, North Providence, Rhode Island
Seven	6/15/11	SMG Dunkin Donuts Center mailed check #9816, which was made payable to "Local 23 c/o John Brennan" in the amount of \$2,173.55, to 90 Printery Street, Providence, Rhode Island

All in violation of 18 U.S.C. § 1341.

COUNTS EIGHT THROUGH TEN

20. The Grand Jury incorporates by reference the allegations in paragraphs 1 - 17 of the Indictment and further charges:

21. On or about the dates set forth below, in the District of Rhode Island, Defendant JOHN J. BRENNAN did embezzle, steal and unlawfully and willfully abstract and convert to his own use in the amounts set forth below the moneys, funds, securities, premiums, credits, property and other assets of the IATSE Local 23 Health & Welfare Plan, an employee welfare benefit plan subject to Title I of the Employee Retirement Income Security Act of 1974:

<u>Count</u>	<u>Date of Check</u>	<u>Amount</u>	<u>Action taken by Defendant</u>
Eight	4/30/09	\$264.25	Embezzled, stole and converted to his own use check #787328 which was made payable to "IATSE Local 23 Health and Welfare Fund" and mailed to 58 Sampson Avenue, North Providence, Rhode Island
Nine	11/26/09	\$713.15	Embezzled, stole and converted to his own use check #810853 which was made payable to "IATSE Local 23 Health and Welfare Fund" and mailed to 58 Sampson Avenue, North Providence, Rhode Island
Ten	6/10/10	\$475.31	Embezzled, stole and converted to his own use check #829879 which was made payable to "IATSE Local 23 Health and Welfare Fund" and mailed to 58 Sampson Avenue, North Providence, Rhode Island

All in violation of 18 U.S.C. § 664.

COUNTS ELEVEN THROUGH THIRTEEN

22. The Grand Jury incorporates by reference the allegations in paragraphs 1-17 of this Indictment and further charges:

23. On or about the dates set forth below, in the District of Rhode Island, Defendant JOHN J. BRENNAN, while an officer, that is, the Secretary-Treasurer of IATSE LU 23, a labor organization engaged in an industry affecting commerce, did embezzle, steal and unlawfully and willfully abstract and convert to his own use the moneys, funds, securities, property, and other assets of said labor organization in the amounts set forth below:

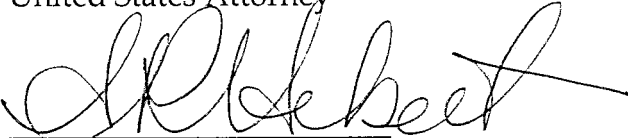
<u>Count</u>	<u>Date of Check</u>	<u>Amount</u>	<u>Action taken by Defendant</u>
Eleven	3/19/09	\$ 883.72	Embezzled, stole and converted to his own use check #783354 which was made payable to "IATSE Local 23" and mailed to 58 Sampson Avenue, North Providence, Rhode Island
Twelve	3/8/10	\$2,921.92	Embezzled, stole and converted to his own use check #8258 dated March 8, 2010 which was made payable to "Local 23 IATSE c/o John Brennan Sr" and mailed to 58 Sampson Avenue, North Providence, Rhode Island
Thirteen	6/15/11	\$2,173.55	Embezzled, stole and converted to his own use check #9816 dated June 15, 2011 which was made payable to "Local 23 c/o John Brennan" and mailed to 90 Printery Street, Providence, Rhode Island

All in violation of 29 U.S.C. § 501(c).

A TRUE BILL:

REDACTED

PETER F. NERONHA
United States Attorney


SANDRA R. HEBERT
Assistant U.S. Attorney


ADI GOLDSTEIN
Assistant U.S. Attorney
Criminal Division Chief

Date: 3/19/2014

DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURT

BY: ☐ INFORMATION ☒ INDICTMENT ☐ COMPLAINT

CASE NO. 14-042-S

Matter Sealed: ☐ Juvenile ☐ Other than Juvenile☐ Pre-Indictment Plea ☐ Superseding ☐ Defendant Added
☐ Indictment ☐ Charges/Counts Added
☐ Information

Name of District Court, and/or Judge/Magistrate Location (City)

UNITED STATES DISTRICT COURT RHODE ISLAND
DISTRICT OF RHODE ISLAND Divisional OfficeName and Office of Person
Furnishing Information on
THIS FORM

PETER F. NERONHA

☒ U.S. Atty ☐ Other U.S. Agency
Phone No. (401) 709-5000Name of Asst.
U.S. Attorney
(if assigned)

SANDRA R. HEBERT

PROCEEDING

Name of Complainant Agency, or Person (& Title, if any)
Department of Labor☐ person is awaiting trial in another Federal or State Court
(give name of court)☐ this person/proceeding transferred from another district
per (circle one) FRCrP 20, 21 or 40. Show District☐ this is a reprosecution of charges
previously dismissed which were
dismissed on motion of:☐ U.S. Atty ☐ Defense☐ this prosecution relates to a
pending case involving this same
defendant. (Notice of Related
Case must still be filed with the
Clerk.)☐ prior proceedings or appearance(s)
before U.S. Magistrate Judge
regarding this defendant were
recorded underSHOW
DOCKET NO.MAG. JUDGE
CASE NO.Place of
offense RHODE ISLAND

County

USA vs.

Defendant: JOHN J. BRENNAN

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REDACTED

Alien
Applicable)Issue: ☐ Warrant ☒ Summons

Location Status:

Arrest Date _____ or Date Transferred to Federal Custody _____

☐ Currently in Federal Custody☐ Currently in State Custody☐ Writ Required☐ Currently on bond☐ Fugitive

Defense Counsel (if any):

☐ FPD ☐ CJA ☐ RET'D☐ Appointed on Target Letter☐ This report amends AO 257 previously submitted

OFFENSE CHARGED - U.S.C. CITATION - STATUTORY MAXIMUM PENALTIES - ADDITIONAL INFORMATION OR COMMENTS

Total # of Counts 13

Set	Title & Section/Offense Level (Petty = 1 / Misdemeanor = 3 / Felony = 4)	Description of Offense Charged	Felony/Misd.
	SEE ATTACHED		<input checked="" type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor
			<input type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor
			<input type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor
			<input type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor
			<input type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor
		Estimated Length of Trial: 7 days	<input type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor

Attachment to
Defendant Information Relative to a Criminal Action – In U.S. District Court

Defendant: JOHN J. BRENNAN

Counts I through VII: Knowingly caused to be sent, delivered, and moved by the United States Postal Service and by commercial interstate carriers, according to the directions thereon, various matters, items, and things, all in violation of 18 U.S.C. § 1341.

Max Penalties: 18 U.S.C. § 1341 – 20 years imprisonment; \$250,000 fine; 3 years supervised release; \$100 mandatory special assessment.

Counts VIII through X: Embezzle, steal and unlawfully and willfully abstract and convert to his own use in the amounts set forth below the moneys, funds, securities, premiums, credits, property and other assets of the IATSE Local 23 Health & Welfare Plan, an employee welfare benefit plan subject to Title I of the Employee Retirement Income Security Act of 1974, all in violation of 18 U.S.C. § 664.

Max Penalties: 18 U.S.C. § 664 – 5 years imprisonment; \$250,000 fine; 3 years supervised release; \$100 mandatory special assessment.

Count XI through XIII: Embezzle, steal and unlawfully and willfully abstract and convert to his own use the moneys, funds, securities, property, and other assets of said labor organization, all in violation of 29 U.S.C. § 501c.

Max Penalties: 29 U.S.C. § 501c – 5 years imprisonment; \$250,000 fine; 3 years supervised release; \$100 mandatory special assessment.